

Application No. 10/603,001  
Amendment dated June 2, 2006  
Reply to Office Action of March 3, 2006

### **REMARKS**

Claims 1-21 are pending in the application. Claims 13-16 are allowed. Claims 2-6, 8-16 and 20 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1, 7, 17-19 and 21 are rejected.

#### **Claim Objections**

Applicants have amended Claims 8 and 21 as suggested by the Examiner.

#### **Claim Rejections - 35 U.S.C. § 102**

The Examiner rejected Claims 1, 7 and 17-19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,487,856 to Ohashi et al. (hereinafter "Ohashi et al. '856"). Further, the Examiner rejected Claims 1, 7, and 17-19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,473,964 to Okada et al. (hereinafter "Okada et al. '964") and by U.S. Patent No. 4,962,675 to Aoi et al. (hereinafter "Aoi et al. '675").

Ohashi et al. '856 discloses an endcap for a tandem pump unit. Referring to Figures 7 and 8, two sets of system passages 131a, 131b are connected to each pump, 110a, 110b, respectively, and lead to one exterior system port 132a, 132b per system passage. The opposite end of each system passage is closed by a check valve (161) used to allow operating fluid to bypass the hydraulic pump.

Independent claims 1, 7 and 17, as amended, call for a pair of system passages, each having a pair of system ports formed in the exterior of the endcap housing and accessible from the exterior of the pump housing. Contrary to the claimed arrangement, Ohashi et al. '856 discloses system passages 131a, 131b, each of which terminates in a single system port. The opposite end of system passages 131a, 131b is closed by a check valve (161). The end of system passages 131a, 131b in which check valves 161 are positioned are not system ports, i.e. ports for conveying operating fluid from the pump to a motor. Nowhere does Ohashi et al. '856 disclose or suggest that check valves 161 may be removed and the opening in which they are secured

used as a system port. Instead, Ohashi et al. '856 indicates that check valves 161 are necessary to allow operating fluid forced from the motor into the endcap during manual movement of a vehicle to bypass the hydraulic pump. Moreover, were check valves 161 removed, the ports in which they reside could not function as system ports because bypass passage 133a (Figure 7) would allow fluid pumped from the hydraulic pump to bypass the motor and be immediately returned to the pump.

Okada et al. '964 discloses an endcap for a hydrostatic pump in an axle driving apparatus. Referring to Figures 2 and 3, Okada et al. '964 discloses two system passages 3a and 3b that directly connect hydrostatic pump P and motor M which are both contained within the transaxle housing.

Nowhere does Okada et al. '964 disclose system ports accessible from an exterior of the pump housing as called for in amended independent claims 1, 7 and 17. To the contrary, the system ports of Okada et al. '964 are all enclosed by the housing and are not accessible from an exterior of the pump housing as called for in independent claims 1, 7 and 17.

Aoi et al. '675 discloses a shifting device for a lawn mower. Referring to Figure 8, Aoi et al. '675 discloses an endcap for a hydrostatic transmission having system passages 101, 102 directly connecting pump 86 and cylinder block 94.

Nowhere does Aoi et al. '675 disclose system ports accessible from an exterior of the pump housing as called for in amended independent claims 1, 7 and 17. Aoi et al. '675 does not disclose the utility of plugs 103. However, the ends of the system passages 101, 102 closed by plugs 103 are not system ports because they do not convey operating fluid between pump 86 and cylinder block 94. As noted above, Aoi et al. '675 discloses a pair of system passages 101, 102 which directly connect pump 86 and cylinder block 102. Removal of plugs 103 would depressurize the system and render the transmission in Aoi et al. '675 inoperable.

#### **Claim Rejections - 35 U.S.C. § 103**

The Examiner rejected Claim 21 as being rendered obvious by Ohashi et al. '856, Okada et al. '964 and Aoi et al. '675. In making this rejection, the Examiner relied on Ohashi et al. '856,

Application No. 10/603,001  
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Okada et al. '964 and Aoi et al. '675 as disclosing the hydrostatic pump called for in Claim 17 from which Claim 21 depends. As indicated above, Ohashi et al. '856, Okada et al. '964 and Aoi et al. '675 do not disclose or suggest the pump called for in Claim 17. Therefore, Claim 21 is patentable over the cited art for at least the reasons advanced with respect to Claim 17.

**Allowable Subject Matter**

Applicants appreciate the allowance of Claims 13-16.

Applicants further appreciate the indication of allowance of subject matter in Claims 2-6, 8-16 and 20. Applicants respectfully submit that these claims are in condition for allowance with Claims 1, 7 and 17 from which they depend.

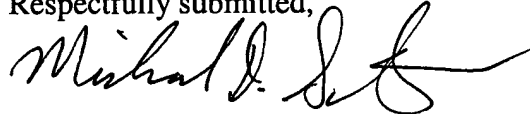
It is believed that the above represents a complete response to the Office Action and reconsideration is requested. Specifically, Applicants respectfully submit that the current application is in condition for allowance and such action is earnestly solicited.

In the event Applicants have overlooked the need for an extension of time or payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, BAKER & DANIELS.

Application No. 10/603,001  
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Reply to Office Action of March 3, 2006

If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 260/424-8000.

Respectfully submitted,



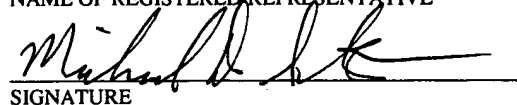
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